

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

VERN McKINLEY,)	
20745 Ashburn Station Place)	
Ashburn, Virginia 20147,)	
)	
Plaintiff,)	Civil Action No.
)	
v.)	
)	
BOARD OF GOVERNORS OF THE)	
FEDERAL RESERVE SYSTEM)	
20th St. and Constitution Ave., N.W.)	
Washington, DC 20551,)	
)	
Defendants.)	
_____)	

COMPLAINT

Plaintiff Vern McKinley brings this action against Defendant Board of Governors of the Federal Reserve System (“the Board”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Vern McKinley is a private citizen residing in Ashburn, Virginia. He is a former employee of the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, and the Office of Thrift Supervision. Since 1999, he has served as a consultant, legal advisor and regulatory policy expert on financial

sector issues for governments in the United States, China, Nigeria, Indonesia, Ukraine, Kazakhstan, Latvia, the Philippines, Yugoslavia (now Montenegro), Kenya, Eastern Caribbean Currency Union, Belarus, Morocco, Sudan, Libya, Afghanistan, Armenia, Kosovo, and Tajikistan. In addition, Plaintiff is a Research Fellow at the Independent Institute and author of the recently-published book *Financing Failure: A Century of Bailouts*.

4. Defendant Board of Governors of the Federal Reserve System (“the Board”) is an agency of the United States Government and is headquartered at 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On May 15, 2012, Plaintiff submitted a FOIA request to the Board seeking access to:

Copies of any and all records of the Board located at the FRBNY concerning, regarding, or relating to the proposition that “the disorderly failure of AIG was likely to have a systemic effect on financial markets that were already experiencing a significant level of fragility.” Such records include, but are not limited to, [] detailed meeting minutes, meeting notes, supporting memoranda, communications, and electronic messages and attachments.

6. By electronic mail dated May 18, 2012, the Board acknowledged receiving Plaintiff’s request on May 15, 2012 and assigned the request file number F-2012-00375. The Board’s acknowledgement letter did not state whether a determination to comply with the request had been made. Nor did the letter notify Plaintiff of any such determination, the reasons therefor, or the right to appeal any adverse determination.

7. By electronic mail dated June 13, 2012, the Board informed Plaintiff that, pursuant to 5 U.S.C. §552(a)(6)(B)(i), it sought a 10-day extension to make a determination on Plaintiff's request.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), the Board was required to determine whether to comply with Plaintiff's request within twenty (20) working days after its receipt of the request and to notify Plaintiff immediately of its determination, the reasons therefor, and the right to appeal any adverse determination. However, because the Board sought an extension pursuant to 5 U.S.C. §552(a)(6)(B)(i), its determination was ultimately due on June 27, 2012 at the latest.

9. As of the date of this Complaint, the Board has failed to: (i) determine whether to comply with Plaintiff's request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

10. Because the Board has failed to comply with the time limits set forth in 5 U.S.C. § 552(a)(6)(A) and 5 U.S.C. §552(a)(6)(B)(i), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its request, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff realleges paragraphs 1 through 10 as if fully stated herein.

12. Defendant is unlawfully withholding public records requested by Plaintiff pursuant to 5 U.S.C. § 552.

13. Plaintiff is being irreparably harmed by reason of Defendant's unlawful withholding of the requested public records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: July 18, 2012

Respectfully submitted,

/s/ Paul J. Orfanedes
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